

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

GIOVANNI NUNEZ,

Defendant.

CASE NO. CR20-0097-JCC

ORDER

This matter comes before the Court on the Government and Defendant Giovanni Nunez's stipulated motion to continue the trial date and the pretrial motions deadline (Dkt. No. 40). Mr. Nunez is charged with two counts of possession of fentanyl with intent to distribute. (Dkt. No. 28.) The parties move to continue trial from May 3, 2021 to September 7, 2021; continue the pretrial motions deadline from April 2, 2021 to August 6, 2021; and exclude the time period from the date of this order to the new trial date for purposes of the Speedy Trial Act. (*See generally* Dkt. No. 40.) The Court previously granted the parties' stipulated requests to continue trial from September 2020 to February 2021, (Dkt. No. 35), and then to May 2021, (Dkt. No. 38), to allow Mr. Nunez's counsel sufficient time to prepare for trial given the volume of discovery in the case and the impact of the COVID-19 pandemic on counsel's ability to adequately review discovery with Mr. Nunez. The parties seek a third continuance because, despite due diligence, additional time is needed for Mr. Nunez's counsel to adequately prepare

1 for trial given the volume of discovery and the impact of the pandemic on trial preparation. (Dkt.
2 No. 40 at 1.)

3 In addition, the COVID-19 pandemic continues to limit the Court's ability to conduct
4 criminal trials. (*See* General Orders 01-20, 02-20, 07-20, 08-20, 11-20, 13-20, 15-20, 18-20, 04-
5 21 each of which the Court incorporates by reference.) The pandemic has made it difficult for the
6 Court to obtain an adequate spectrum of jurors to represent a fair cross section of the community,
7 and public health guidance has impacted the ability of jurors, witnesses, counsel, and Court staff
8 to be present in the courtroom. (*See generally id.*) As a result, the Court has been unable to
9 conduct any criminal trials in the courthouse since March 2020. Although the availability of a
10 vaccine makes it possible that the Court will be able to resume some in-person criminal trials in
11 May 2021, the Court will continue to be limited by public health measures that necessitate
12 continuing most trials past June 30, 2021. *See* General Order 04-21 at 2.

13 For all the reasons set forth in the parties' joint motion and this Order, the Court
14 CONTINUES trial to August 30, 2021 and FINDS that the ends of justice served by continuing
15 the trial in this case outweigh the best interest of the public and Mr. Nunez to a speedy trial. *See*
16 18 U.S.C. § 3161(h)(7)(A). The Court further FINDS:

17 A. Taking into account the exercise of due diligence, the failure to grant a continuance
18 would deny counsel for the defendant reasonable time necessary for effective preparation,
19 *see* 18 U.S.C. § 3161(h)(7)(B)(iv), and would therefore result in a miscarriage of justice,
20 *see* 18 U.S.C. § 3161(h)(7)(B)(i).

21 B. The additional time requested is a reasonable period of delay, as the defendant has
22 requested more time to prepare for trial, to investigate the matter, to gather evidence
23 material to the defense, and to consider possible defenses.

24 C. The time between the current trial date and the new trial date is necessary to provide Mr.
25 Nunez's counsel with reasonable time to prepare for trial.

26 D. The COVID-19 pandemic has made it difficult for the Court to obtain an adequate

spectrum of jurors to represent a fair cross section of the community, which makes proceeding on the current case schedule impossible or, at a minimum, would result in a miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i).

E. Public health guidance has impacted the ability of jurors, witnesses, counsel, and Court staff to be present in the courtroom. Therefore, proceeding with trial as scheduled would likely be impossible. *See* 18 U.S.C. § 3161(h)(7)(B)(i).

Accordingly, the Court GRANTS in part the motion (Dkt. No. 40) and ORDERS:

1. Trial is CONTINUED to August 30, 2021.
2. The pretrial motions deadline is continued to July 19, 2021.
3. The period of time between the date of this Order and the new trial date is excludable time under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A).

DATED this 22nd day of April 2021.

A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE